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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 26TH DAY OF MAY 1998

BEFORE

THE HON'BLE MR.JUSTICE G.C.BHARUKA

WRIT PETITION NO:5114/1998

BETWEEN:

Y.S.Patil, s/o Somannagouda Patil,
aged about 54 years, Divisional
work Superintendent, Divisional
Workshop, Karnataka State Road
Transport Corporation, Gadag Divn,
Gadag.

(By Sri B.Prabhu Devaru, Adv)

..Petitioner

AND:

1. The Karnataka State Road
Transport Corporation by his
Managing Director, K.S.R.T.C.
Central Offices, K.H.Road, Bangalore-27.
2. Chief Mechanical Engineer(Maintenance),
K.S.R.T.C, Central Offices,
K.H.Road, Bangalore-27.
3. The Divisional Controller,
K.S.R.T.C. Gadag Divn,
Gadag.

(By Sri P.R.Ramesh, Adv)

..Respondents

. . .

W.P. is filed u/A 226 & 227 of the Constitution
of India with a prayer to quash vide Anx.G dt.29.10.97
by R2 and etc.,

This petition coming on for prly.hg. this day the
court made the following:

..order.

O R D E R

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Heard Mr. B. Prabhu Devaru, learned counsel for the petitioner and Mr. P.R. Ramesh, learned Standing Counsel for the respondent-Karnataka State Road Transport Corporation.

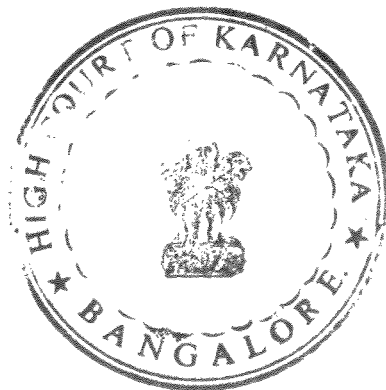
2. The present writ petition is directed against the order dt. 29.10.1997 (Annexure 'G') passed by the 2nd respondent reverting the petitioner from the post of Divisional Works Superintendent to that of Chargemen and fixing his seniority in the ~~last of~~ cadre Chargemen.

3. It appears that the petitioner is an employee of the respondent-Corporation. It is not in dispute that for certain acts of omissions and commissions on the part of the petitioner, a disciplinary proceedings was initiated and after following all the formalities, order of punishment at Annexure 'G' was passed, against which an appeal dt. 8.12.1997 at Annexure 'H' was preferred before the appellate authority. Now, it has been stated at the Bar that the appellate authority, under its order dt. 26.3.1998, ^{has} set aside the order at Annexure 'G' of disciplinary authority and remitted the matter to the Chief Mechanical Engineer(M), purported to be the Disciplinary Authority, to pass fresh orders in accordance with law. Learned counsel for the petitioner states that despite setting aside of the impugned order at Annexure 'G', the matter could not have been remitted to the Chief Mechanical Engineer (M) inasmuch as he is not ^{the} disciplinary authority. According to the petitioner, the matter should have been remitted to the Divisional Controller, Gadag, being the Disciplinary Authority.

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4. In my opinion, the arguments advanced by the learned counsel for the petitioner has some substance inasmuch as the objection so raised by the petitioner has not been considered either by the disciplinary authority or by the appellate authority. Accordingly, the writ petition is being disposed of granting permission to the petitioner to raise objection regarding the competence of the 2nd respondent - Chief Mechanical Engineer (M) to act as disciplinary authority before the designated authority within THREE weeks from today or an earlier date which is to be fixed in the disciplinary proceedings.

Sd/-
JUDGE



jsk/-